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Agenda item 9

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[8 August 1997]

GE.97-13309 (E)

3. The International Federation of Human Rights Leagues and its affiliates in Ireland, the Committee on the Administration of Justice (CAJ) in Northern Ireland and the Irish Council for Civil Liberties in the Republic of Ireland, continue to be concerned about the situation of human rights in Northern Ireland. It is crucial that the new United Kingdom Government gives immediate priority to the question of rights, both because of the importance this has in principle, and because of the contribution such a focus could make to the peace process.

2. We are also concerned that the Government of the Republic of Ireland has failed to put an end to its special courts and emergency measures.

3. In recent submissions to the Sub-Commission we urged both Governments to dismantle emergency legislation. We also recommended measures to reassure all sections of the population that their rights would be respected and protected. Regrettably, very little, if indeed any, action has been taken in this matter.

4. While there has been continuing violence by republican and loyalist groups, the recent announcement of a new ceasefire by the IRA undermined the oft-repeated justification for the maintenance of emergency laws. We would argue that it is now of particular importance that the Governments of the United Kingdom and the Republic of Ireland live up to their responsibilities under international human rights law and end their emergency regimes.

Northern Ireland

5. In spite of calls from the United Nations Human Rights Committee and the United Nations Committee against Torture to dismantle emergency legislation in Northern Ireland, emergency laws have in fact been renewed and extended.

6. The United Kingdom Government continues to derogate from the International Covenant on Civil and Political Rights and the European Convention on Human Rights in respect of its seven-day detention powers. Restrictions are placed on access to legal advice and the United Kingdom Government has still not responded to the judgement of the European Court of Human Rights in the Murray case which found that the practice in this regard violated the right to a fair trial. Departures from the normal due process of law have contributed to a significant number of miscarriages of justice that have yet to be resolved.

7. In our statement of last year to the Sub-Commission we referred to the situation of prisoners and its relevance to the peace process. We are concerned that the conditions for Irish Republican prisoners in Britain have in fact continued to deteriorate. We have been particularly alarmed at the treatment of Roisin McAliskey, a young woman in relation to whom Amnesty International issued an urgent action on the grounds that she was being held in conditions amounting to inhuman and degrading treatment. We are also concerned that the pace of transfers to Ireland, north and south, remains slow. The suspicious death of Jim McDonnell, a prisoner at Maghaberry prison in Northern Ireland, remains unresolved, more than a year after it occurred. There has been no public inquiry into his death.

8. Reports about the intimidation of defence lawyers by police officers and the wider issue of collusion between some police officers and paramilitaries have not been satisfactorily resolved. Recently, a solicitor was subjected to very serious abuse including verbal abuse via her clients and, in a particularly serious incident, a physical assault upon her person by police officers.

9. The conflict between the rights of marchers and residents around the issue of controversial parades continues. Last year the Government decided to re-route one of the most controversial marches, but the decision was overturned because of the threat and actuality of violence. This year the same march was allowed to proceed on the basis of a similar threat. The taking of decisions on the sole criterion of public order is totally unacceptable. Such a stance undermines the concept of the rule of law, encourages resort to violence in order to achieve one's aims, and leaves the rights of a minority (whoever they might be) unprotected. Public order is an important criterion to be considered, but principles of international human rights and the balancing of rights are clearly also essential to the decision-making process.

10. During the course of the disturbances last year, Dermot Meehane was killed when he was crushed by a British army vehicle. There has still not been any public inquiry into his death. Similarly, there have been a number of recent incidents involving the use of undercover police and army units which have led to serious injuries to a number of individuals. We are concerned that fatalities may occur if the use of these units is not restricted.

11. We are convinced that there should be an immediate ban on the use of plastic bullets which have caused some 17 deaths in Northern Ireland, more than half of them children. In a 60-hour period in early July some 2,400 bullets were fired, suggesting that this is a weapon of first not last, resort for the security forces. Given that the annual average between 1982 and 1996 has been just over 1,000, the enormous surge in their use last summer and this summer is particularly disturbing.

Republic of Ireland

12. The Republic of Ireland has taken and used extensive emergency laws and powers to deal with the overspill of violence from Northern Ireland into its jurisdiction. The Irish authorities still rely on a pre-Second World War anti-terrorist statute called the Offences Against the State Act, 1939. In 1972 the Irish Government used this law to establish a non-jury system of justice and a Special Criminal Court to try paramilitary offences, thus creating a two-tier system of justice since jury trial is prescribed by the Irish Constitution for all other serious charges. The 1939 Act was also amended in 1972 to make the opinion of a police officer persuasive evidence of an accused person's membership of an illegal organization, an offence carrying a potential seven-year jail term.

13. The, Special Criminal Court is still in operation despite a significant decline in paramilitary offences even before the 1994 IRA ceasefire. The Human Rights Committee, when reviewing Ireland's report under the

International Covenant on Civil and Political Rights in July 1991, said it did not consider the continued use of the Special Criminal Court to be justified. It also expressed concern about the extent of police powers in Ireland.

14. The Irish Government promised to review the need for the Special Criminal Court and for exceptional laws generally following the 1994 ceasefire but the result of this review, if it took place, was never announced. There is no provision for periodic review of exceptional measures and the Irish Supreme Court last October held that the courts had no role in reviewing the need for such measures. In a worrying development, the authorities have recently begun to send significant numbers of people charged with non-subversive offences for trial by the Special Criminal Court, thus discriminating against them as compared with other persons charged with non-paramilitary offences.

15. While the Irish Government did respond in some ways to the 1994 IRA ceasefire, we were disappointed that they took no steps to dismantle the Special Criminal Court or repeal the Offences Against the State Act. It was regrettable that the Irish Government did not set an example by restoring due process and ceasing to rely on emergency measures when the level of paramilitary violence was so much less than in Northern Ireland or even in the United Kingdom. We hope that now the IRA ceasefire has been restored, the Republic of Ireland will move quickly to restore the normal rule of law and conform to international human rights standards.

16. We mentioned last year that following the murder of a police officer in June 1996, there had been allegations of ill-treatment of persons arrested for questioning in connection with this crime. Two men who appeared in court showed visible signs of ill-treatment and about a dozen other persons made complaints to the Irish Council for Civil Liberties (ICCL). At one stage attempts were even made to intimidate an ICCL worker into handing over confidential documents concerning these complaints to the police. The ICCL, together with British Irish Rights Watch, has compiled a report on these complaints which will be furnished to the Human Rights Committee.

17. We believe that the Irish Government must hold an independent inquiry into these allegations if it is to show that ill-treatment by its police force will not be tolerated. Few lawyers or human rights workers have confidence that the official police complaints body is sufficiently independent to carry out this task. So far the Irish Government has ignored calls for an inquiry and does not appear to take this matter sufficiently seriously. Once again, determined and patently impartial action by the Irish Government in this matter could set an example for dealing with similar complaints in Northern Ireland where there is a much greater problem of confidence in the police force.

Conclusions

18. We would respectfully request the Sub-Commission to urge the British and Irish Governments to end all emergency legislation and to bring their laws and practices into conformity with international human rights standards. The restoration of the IRA ceasefire provides a timely opportunity for movement in this regard. We welcome the announcement by the British Government of its